

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SANTA ANA UNIFIED SCHOOL
DISTRICT AND ORANGE COUNTY
SCHOOL OF THE ARTS.

OAH Case No. 2016030890

ORDER GRANTING MOTION TO
UNEXPEDITE HEARING

On March 18, 2016, Student filed a Due Process Hearing Request (complaint) against Santa Ana Unified School District and Orange County School of the Arts. On March 22, 2016, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited and Non-Expedited Due Process Hearing and Mediation (Scheduling Order).

On March 30, 2016, the parties filed a joint motion to unexpedite this matter and vacate the expedited dates, based upon Student withdrawing Issue 2 from the complaint.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C. § 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).¹) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2) .) The procedural right to an expedited due process hearing is mandatory and does not authorize OAH to make exceptions or grant continuances of expedited matters. (*Ibid.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

¹ All subsequent references to the Code of Federal Regulations are to the 2006 version.

DISCUSSION

In Issue 2, Student alleged that Santa Ana Unified School District and Orange County School of the Arts should not have expelled Student because they had a basis of knowledge that Student might be eligible for special education and related services. Issue 1 alleged that Santa Ana Unified School District and Orange County School of the Arts failed in their child find duties to assess Student for special education eligibility and seeks an order that Santa Ana Unified School District and Orange County School of the Arts assess Student.

The parties have demonstrated that no expedited issues presently exist for hearing with Student withdrawing Issue 2, so that an expedited hearing is no longer required. Specifically, Student is no longer seeking to set aside the expulsion order, and presently now only contends that Santa Ana Unified School District and Orange County School of the Arts violated their child find duties in Issue 1. Accordingly, the expedited hearing dates will be vacated, and matter proceed on the unexpedited issues.

ORDER

1. The motion to unexpedite this matter is granted.
2. The following expedited dates are vacated: Prehearing conference of April 15, 2016, and hearing dates of April 19 through 21, 2016.
3. This matter shall proceed on the following unexpedited dates: Prehearing conference of May 6, 2016, and hearing date of May 12, 2016.

DATE: April 4, 2016

DocuSigned by:

Peter Paul Castillo

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PETER PAUL CASTILLO

Presiding Administrative Law Judge
Office of Administrative Hearings